

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SKOKOMISH INDIAN TRIBE, a federally recognized Indian tribe, in its own capacity, as a class representative, and as *parens patriae*, *et al.*,

Plaintiffs.

V.

UNITED STATES OF AMERICA, TACOMA
PUBLIC UTILITIES, a Washington municipal
corporation, *et al.*,

Defendants.

Case No. C99-5606FDB

**ORDER DENYING MOTION FOR
RELIEF FROM JUDGMENT**

Plaintiffs move for relief from judgment pursuant to Fed. R. Civ. P. 60(b), or to alter and amend judgment under Fed. R. Civ. P. 59(e) in order to allow federal common law claims to proceed and, if necessary, to grant leave to amend the complaint, and for recusal of the undersigned judge.

This Court dismissed Plaintiffs' claims on summary judgment, and Plaintiffs appealed. The Ninth Circuit affirmed the dismissal, and the Plaintiffs sought and obtained rehearing *en banc*. The *en banc* panel affirmed the dismissal, and Plaintiffs sought an additional rehearing *en banc*. Plaintiffs' arguments were again rejected. Plaintiffs *certiorari* petition to the United States Supreme Court was denied on January 9, 2006. The Ninth Circuit issued its mandate on January 26, 2006

ORDER - 1

1 [Dkt. # 178] wherein the Court stated:

2 On consideration whereof, it is now here ordered and adjudged by this Court,
3 that the judgment of the said District Court in this cause be and hereby is AFFIRMED
4 IN PART AND TRANSFERRED TO THE COURT OF FEDERAL CLAIMS IN
PART.

5 Nothing is left for this Court to do. The Ninth Circuit affirmed this Court, it did not remand for
6 further proceedings in this Court. Plaintiffs may pursue certain of their claims in the Court of Federal
7 Claims. For the forgoing reasons and for reasons for fully elaborated in Tacoma's response to
Plaintiffs' motion, Plaintiffs' motion is denied.

8 NOW, THEREFORE, IT IS ORDERED: Plaintiffs' Motion for Relief from Judgment, or to
9 Alter and Amend Judgment and To Recuse [Dkt. # 179] is DENIED.

10 DATED this 12th day of April, 2006.

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13 FRANKLIN D. BURGESS
14 UNITED STATES DISTRICT JUDGE
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